

Peter McMullin Centre on Statelessness  
Melbourne Law School

## RESPONSE TO CALL FOR CONSULTATION

**To:** *World Bank ID4D*

**By:** *Dr Christoph Sperfeldt and Elif Sekercioglu*  
*Peter McMullin Centre on Statelessness, Melbourne Law School*

**Date:** *11 March 2020*

### SUMMARY OF REQUEST

#### (1) Principles on Identification for Sustainable Development

Inputs were requested on:

- Themes or principles that were not originally included but should be considered;
- Principles that need further clarification or elaboration to address new learnings;
- Terminology or wording that needs adjusting to increase understanding.

#### (2) Qualitative Research Toolkit: Understanding People's Perspectives on Identification

General comments were solicited on the draft toolkit.

### INFORMATION ABOUT THE CONTRIBUTOR

Melbourne Law School's **Peter McMullin Centre on Statelessness** was established in 2018 with the objective of undertaking research, teaching and engagement activities aimed at reducing statelessness and protecting the rights of stateless people in Australia, the Asia Pacific region, and as appropriate more broadly.

The focus of the Centre is to develop teaching, research and engagement projects with three major aims:

- To properly understand the scope, scale and reasons for statelessness in order to develop targeted and effective responses to it;
- To work towards reducing and, over time, eliminating statelessness; and
- Until statelessness is eliminated, working to protect the human rights of stateless people within the countries in which they reside.

See more at <https://law.unimelb.edu.au/centres/statelessness>

As a Centre working on stateless populations our main interest is in principles and tools that ensure that the concerns of stateless and/or other marginalised populations are appropriately considered in the design and implementation of identification initiatives.

## (1) PRINCIPLES ON IDENTIFICATION

The Principles acknowledge risks of exclusion for certain marginalised populations, including stateless persons. Principles of ‘universality’ and ‘non-discrimination’ therefore underpin Principle 1.

We propose to also consider the ‘**Do No Harm**’ (DNH) principle in the context of identification. Since its emergence in the 1990s in the humanitarian and peace & conflict sectors, DNH has increasingly been applied to development work (see CDA). The main purpose of DNH is to avoid exposing people to additional risks – advertently or inadvertently – through program interventions or actions. This requires looking at the broader context and mitigating negative effects on affected populations, economies and environments (Charanle & Lucchi 2018).

Adopting DNH would assist those designing and implementing identification initiatives with taking preventive action against unintended adverse consequences of their actions. DNH should particularly be considered in risk and social impact assessments prior and during the implementation of identification initiatives (Wallace 2016).

## (2) QUALITATIVE RESEARCH TOOLKIT

The qualitative research toolkit brings together a significant amount of relevant information. We support that the toolkit affirms the need for qualitative research, especially for the purposes of identifying the concerns of marginalised populations, including stateless persons, which are often overlooked or left out from larger-scale quantitative mappings or ID program design studies (pp4-5, 21-23).

We propose to strengthen the toolkit in two respects: (1) by making it **more specific to identification-related research**, for instance by including more specific examples and challenges related to research in this field; (2) by enhancing the **research ethics** section, including by incorporating Do No Harm (DNH) principles (see above).

### *The specificity of identity-related qualitative research*

The current toolkit is rather general in nature which will allow to apply it to a wide range of contexts and ID programs. However, we believe that the toolkit would benefit from a more direct focus on identification-related research practices and challenges. This could be achieved by including practical examples, recurrent challenges, best practices etc. which specifically address ID-related research. We also recommend expanding the toolkit with cross-references or links to other resources that can be used by researchers. A good example of such a resource is the guide on *Documenting Citizenship and other Forms of Legal Identity* (Open Society Justice Initiative & Namati 2018).

We appreciate that ID-related research is still a novel field and therefore current examples are limited in number. Collecting feedback more systematically from research consultants could fill this gap. For instance, the World Bank could develop a brief post-research feedback questionnaire to be completed by contracted research consultants to gather information about challenges, lessons learned and best practices. Such information could inform future revisions of the toolkit.

### *‘Do no harm’ and research ethics in qualitative research*

It is of utmost importance that researchers consider risks to research participants at the design and implementation stages of ID-related research projects. Too often, research is undertaken in a manner that exposes respondents and puts them unnecessarily at risk, especially with regards to stateless or other marginalised populations. It is important to recognise that for many stateless or undocumented

populations, exclusion from certain identification systems is not simply an oversight, but the result of discrimination and deliberate action (Sperfeldt 2020). This could, for instance, be made more explicit in the risks of marginalisation section (pp21-23), which does not sufficiently consider marginalisation or exclusion from ID systems, in laws and/or practice, resulting from deliberate government or political authority action.

Researchers should be sensitive to and take account of the vulnerabilities of those whom they interview or collaborate with in the research process. In particular, safety and security concerns of research participants (and also of the researchers themselves) are prominent in ID-related research, especially when working with vulnerable populations. Currently, such concerns are not sufficiently considered in the toolkit. We recommend that this is added at the outset (e.g. p10) and further elaborated in the toolkit (perhaps under the ethics section, pp27-31, see below). If researchers cannot guarantee the safety of their research participants or are uncertain of the safety risks, research with certain participant groups should not proceed. This is especially relevant in the context of oppressive policies or in conflict-affected situations.

In our experience, it is a common feature of ID-related research that researchers take photos of people's legal documents or other forms of identification. While this practice is generally addressed on p29, we believe that the specific ethical challenges of ID-related research could be fleshed out in more detail on p31 (see also Raymond 2017). Furthermore, we recommend addressing data protection as a point separately from 'confidentiality' (pp29-30). Among others, guidelines on data protection should include (i) secure storage of data including audio-recordings during and after the data collection phase; and (ii) guidelines around data retention, i.e. destruction of data on devices of external research collaborators and other consultants after completion of research.

In summary, the risks associated with ID-related research, especially for research participants, is understated in the current draft and should therefore be made more explicit. The toolkit could propose strategies to address or minimise these risks.

#### *Other recommendations*

Include 'stateless persons' in the list of marginalised and vulnerable groups in the sample TOR (p75). Non-inclusion of such persons in TORs is one of the main reasons they are overlooked by research consultants.

#### **Resource list**

'Conflict-Sensitivity and Do No Harm', CDA <<https://www.cdacollaborative.org/what-we-do/conflict-sensitivity/>>

Charanle, Jean Martial Bonis and Elena Lucchi, 'Incorporating the Principle of "Do No Harm": How to Take Action Without Causing Harm – Reflections on a Review of Humanity & Inclusion's Practices', Humanity & Inclusion and F3E (Report, 2018)

<[https://www.alnap.org/system/files/content/resource/files/main/donoharm\\_pe07\\_synthesis.pdf](https://www.alnap.org/system/files/content/resource/files/main/donoharm_pe07_synthesis.pdf)>

The Open Society Justice Initiative and Namati, 'A Community-based Practitioner's Guide: Documenting Citizenship & Other Forms of Legal Identity' (Guide, 2018) <<https://www.justiceinitiative.org/uploads/286c1989-73db-4a17-b5a8-79706ccce5e4/a-community-based-practitioners-guide-documenting-citizenship-and-other-forms-of-legal-identity-20180627.pdf>>

Raymond, Nathaniel A, 'Beyond "Do No Harm" and Individual Consent: Reckoning with the Ethical Challenges of Civil Society's Use of Data' in Linnet Taylor, Luciano Floridi and Bart van der Sloot (eds), *Group Privacy: New Challenges of Data Technologies* (Springer, 2016) 67–82 <[https://link.springer.com/chapter/10.1007/978-3-319-46608-8\\_4#Fn3](https://link.springer.com/chapter/10.1007/978-3-319-46608-8_4#Fn3)>

Sperfeldt, Christoph, 'Minorities and Statelessness: Social Exclusion and Citizenship in Cambodia' (2020) 27(1) *International Journal on Minority and Group Rights* 94–120

Wallace, Marshall, 'From Principle to Practice: A User's Guide to Do No Harm' (rev. 2016)

<<http://www.principletopractice.org/docs/From%20Principle%20to%20Practice%20Book.pdf>>